

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LARRY DEAN OXENDINE,

Defendant.

CR 16-17-BU-DLC-2

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on September 13, 2016. Neither party objected and therefore they are not entitled to *de novo* review of the record. 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Larry Dean Oxendine’s guilty plea after Oxendine appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered a plea of guilty to one count of being a felon in

possession of firearms in violation of 18 U.S.C. § 922(g)(1) as set forth in Count VI of the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts I and II of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (Doc. 74), and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

Accordingly, IT IS ORDERED that Larry Dean Oxendine's motion to change plea (Doc. 59) is GRANTED and Larry Dean Oxendine is adjudged guilty as charged in Count VI of the Indictment.

DATED this 5th day of October, 2016.



Dana L. Christensen, Chief District Judge
United States District Court